

1 E. LEIF REID,
2 Nevada Bar No. 5750
3 DARREN J. LEMIEUX,
Nevada Bar No. 9615
4 TARA C. ZIMMERMAN,
Nevada Bar No. 12146
LEWIS AND ROCA LLP
5 50 West Liberty Street, Suite 410
Reno, Nevada 89501
Telephone Number: (775) 823-2900
6 Fax Number: (775)823-2929
lreid@lrlaw.com
dlemeiux@lrlaw.com
tzimmerman@lrlaw.com

8
9 JOSEPH M. ALIOTO
California Bar Number 42680
10 ALIOTO LAW FIRM
One Sansome Street, 35th Floor
San Francisco, CA 94104
11 Telephone Number: (415) 434-8900
Fax Number: (415) 434-9200
12 Email: jmalioito@aliotolaw.com
(Pro Hac Vice Application Pending)

13
14 *Attorneys for Plaintiffs*

15 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

16
17 BRIAN L. GREENSPUN, AN INDIVIDUAL; THE
BRIAN L. GREENSPUN SEPARATE PROPERTY
18 TRUST, DATED JULY 11, 1990; THE AMY
GREENSPUN ARENSON 2010 LEGACY TRUST,

19 PLAINTIFFS,

20 VS.

21 STEPHENS MEDIA LLC, a Nevada limited
liability company; STEPHENS HOLDING
COMPANY OF ARKANSAS, an Arkansas
22 corporation; SF HOLDING CORP., an Arkansas
foreign corporation, d/b/a STEPHENS MEDIA
23 GROUP; DR PARTNERS, a Nevada General
Partnership, d/b/a STEPHENS MEDIA GROUP;
24 STEPHENS MEDIA INTELLECTUAL PROPERTY,
LLC, a Delaware limited liability company;
25 MICHAEL FERGUSON, an individual; WARREN
A. STEPHENS, an individual, DOES, I-X,
26 inclusive,

27
28 DEFENDANTS.

Case No. 2:13-cv-01494-JCM-PAL

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE**

1 Plaintiffs, Brian L. Greenspun, an individual; Brian L. Greenspun, as trustee of The Brian
 2 L. Greenspun Separate Property Trust, dated July 11, 1990; Brian L. Greenspun, as trustee of The
 3 Amy Greenspun Arenson 2010 Legacy Trust (collectively, "Plaintiffs"), through their attorney of
 4 record, Lewis and Roca LLP, hereby respectfully request that this Court take judicial notice of the
 5 following documents in support of Plaintiffs' Motion to for Preliminary Injunction (Doc. 2):

- 6 • Newspaper Preservation Act, 15 U.S.C. § 1801, Congressional declaration of policy,
 7 attached hereto as **Exhibit 1**;
- 8 • July 2011 Report of the Federal Communications Commission's Working Group on
 9 Information Needs of Communities entitled "The Information Needs of Communities: The
 10 changing media landscape in a broadband age" ("FCC Report"), available at
 11 www.fcc.gov/infoneedsreport and attached hereto as **Exhibit 2**.

12 In its Temporary Restraining Order and Order Setting Preliminary Injunction Hearing and
 13 Briefing Schedule (Doc. 9) ("Temporary Restraining Order"), this Court took "judicial notice of
 14 the fact that newspapers around the country are ceasing publication, and the public seems to prefer
 15 the Internet as its source of information. Disparate cities that supported two or more newspapers
 16 (Seattle, Nashville, and Honolulu, for example) are effectively supporting only one. In many
 17 cases, the defunct newspaper is now reporting on line." Temporary Restraining Order (Doc. 9) at
 18 ¶ 4. Plaintiffs respectfully request that the Court take judicial notice of 15 U.S.C. § 1801 and the
 19 FCC Report, particularly the Executive Summary on pages 5-7, the Overview on pages 8-31, and
 20 Chapters 1, 3-4, 21-22, 25 and 35.

21 As to 15 U.S.C. § 1801, "[c]ourts routinely take judicial notice of the law as set forth in
 22 federal and state constitutions, statutes, and court decisions." *In re Poirier*, 346 B.R. 585, 587
 23 (Bankr. D. Mass. 2006) (citing generally *Getty Petroleum Marketing, Inc. v. Capital Terminal*
 24 *Co.*, 391 F.3d 312, 321 (1st Cir. 2004) (concurring opinion by Judge Lipez)); *see also Martinez v.*
 25 *Welk Grp., Inc.*, 09 CV 2883 MMA WMC, 2011 WL 90313 (S.D. Cal. Jan. 11, 2011) ("Courts
 26 routinely take judicial notice of state or federal statutes and regulations.") (internal citations
 27 omitted). Therefore, judicial notice of the congressional intent set forth in 15 U.S.C. § 1801 is
 28 appropriate.

As to the FCC Report, pursuant to Rule 201(c) of the Federal Rules of Evidence, a court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” FED. R. EVID. 201(c)(2). Moreover, facts capable of being judicially noticed are those which are not susceptible to reasonable dispute because the fact is either “generally known within the trial court’s territorial jurisdiction” or “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” FED. R. EVID. 201(b). The reports of an administrative agency are records that fall within this rule. *See, e.g., Mack v. S. Bay Beer Distrib., Inc.*, 798 F.2d 1279, 1282 (9th Cir.1986) (stating that a court “may take judicial notice of records and reports of administrative bodies) (internal citation and quotation omitted), overruled on other grounds in *Astoria Fed. Sav. & Loan Ass’n v. Solimino*, 501 U.S. 104 (1991); *Anderson v. Holder*, 673 F.3d 1089, 1094 (9th Cir. 2012) (citing *Mack* and taking judicial notice of an interpretation published by the U.S. Citizenship and Immigration Services); *In re Wellbutrin SR/Zyban Antitrust Litig.*, 281 F. Supp. 2d 751, 755 (E.D. Pa. 2003) (taking judicial notice of a Federal Drug Administration publication published and available online).

15 Based upon the foregoing, Plaintiffs respectfully request that the Court take judicial notice
16 of the FCC Report and consider the facts stated therein when ruling on Plaintiffs' Motion for
17 Preliminary Injunction (Doc. 2). Plaintiffs further request that the Court take judicial notice of
18 the Congressional policy set forth in 15 U.S.C. § 1801.

19 Dated this 30th day of August, 2013.

LEWIS AND ROCA LLP

BY: Tara C. Zimmerman
E. LEIF REID,
DARREN S. LEMIEUX,
TARA C. ZIMMERMAN
50 West Liberty Street, Suite 410
Reno, Nevada 89501

JOSEPH M. ALIOTO
ALIOTO LAW FIRM
One Sansome Street, 35th Floor
San Francisco, CA 94104

Attorneys for Plaintiffs

1 CERTIFICATE OF SERVICE

2 Pursuant to FRCP 5(b), I certify that I am an employee of Lewis and Roca LLP and that on
3 the 30th day of August, 2013, service of the **PLAINTIFFS' REQUEST FOR JUDICIAL**
4 **NOTICE** upon Defendants was made by depositing a copy for mailing, first class mail, postage
5 prepaid, at Reno, Nevada to the following:

6 Donald J. Campbell
7 J. Colby Williams
8 Campbell & Williams
9 700 South 7th Street
10 Las Vegas, Nevada 89101

11 Mark A. Hinueber
12 Stephens Media
13 PO Box 70
14 Las Vegas, Nevada 89125-0070

15 DATED this 30th day of August, 2013.

16 *Rebecca Tan*)
17 An Employee of Lewis and Roca LLP